

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Anthony Gagliani, individually)	
and as Personal Representative)	C/A No.: 3:20-3737-JMC-SVH
of the Estate of Stephen Walter)	
Gagliani,)	
)	
Plaintiff,)	
)	
vs.)	
)	ORDER AND
)	RULE TO SHOW CAUSE
Lexington County Sheriff's)	
Department; South Carolina Law)	
Enforcement Division; Deputy)	
Brandon Kinder; Deputy Jason)	
Wilkes; State Constable Lawrenc)	
Markey; and Lance Thomas,)	
)	
Defendants.)	
)	

This matter comes before the court on the consent motion of counsel for the court to issue a rule to show cause why fact witnesses Richard Eaton, Lavis Hill, and Curtis Hill (collectively “Witnesses”), having been properly served with subpoenas, should not be held in contempt for failure to appear at their depositions. [ECF No. 29]. The attachments to the motion reveal Witnesses were subpoenaed to appear for their depositions first on April 6, 2021. [ECF Nos. 29-4, 29-5, 29-6].¹ Counsel communicated to the court that Witnesses failed to appear on April 6, 2021. Plaintiff’s counsel subsequently served Witnesses with subpoenas to appear at their depositions on September

¹ There is no proof of service for Eaton’s subpoena to appear on April 6, 2021. However, as this order outlines, Eaton appears to have been properly served with the subpoena to testify on September 9, 2021.

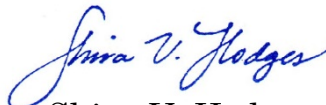
9, 2021. [ECF Nos. 29-, 29-1, 29-2, 29-3]. The court is informed that all counsel appeared for the depositions, but all Witnesses again failed to appear.

In light of the foregoing, the court orders Witnesses to appear at a hearing in this case on October 12, 2021, at 10:00 a.m., at the Matthew J. Perry, Jr. United States Courthouse, 901 Richland Street, Columbia, South Carolina, 29201, and show cause why they failed to appear for their depositions, failed to communicate with the subpoenaing attorney, and why the court should not assess the costs and attorneys' fees of the depositions against them. If Witnesses fail to appear at the October 12, 2021 hearing, the court will consider stronger sanctions, including, but not limited to, holding them in contempt of court and assessing a fine for each day they have delayed the depositions. If Witnesses communicate with Plaintiff's counsel, Eric Cavanaugh and Joseph Thickens, and appear for their depositions prior to the October 12, 2021 hearing, the court may consider canceling the hearing.

Plaintiff's counsel is directed to formally serve Witnesses to advise them of this order. The court will also mail Witnesses a copy of this order by U.S. mail.

IT IS SO ORDERED.

September 9, 2021
Columbia, South Carolina



Shiva V. Hodges
United States Magistrate Judge